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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2026

DAWN DERESE MEDEIROS
P.O. Box 1313
Nevada City, CA 95959

A C C U S A T I O N

Respiratory Care Practitioner License No. 7922

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about July 26, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 7922 to Dawn Dereese Medeiros (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are

1 to the Business and Professions Code unless otherwise indicated.

2 4. Section 3710 of the Code states: "The Respiratory Care Board of
3 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3,
4 the Respiratory Care Practice Act]."

5 5. Section 3718 of the Code states: "The board shall issue, deny, suspend, and
6 revoke licenses to practice respiratory care as provided in this chapter."

7 6. Section 3750 of the Code states:

8 "The board may order the denial, suspension or revocation of, or the imposition of
9 probationary conditions upon, a license issued under this chapter, for any of the following
10 causes:

11 "(d) Conviction of a crime that substantially relates to the qualifications, functions,
12 or duties of a respiratory care practitioner. The record of conviction or a certified copy
13 thereof shall be conclusive evidence of the conviction.

14 "(g) Conviction of a violation of any of the provisions of this chapter or of any
15 provision of Division 2 (commencing with Section 500), or violating, or attempting to
16 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to
17 violate any provision or term of this chapter or of any provision of Division 2 (commencing
18 with Section 500).

19 7. Section 3750.5 of the Code states:

20 "In addition to any other grounds specified in this chapter, the board may deny,
21 suspend, or revoke the license of any applicant or license holder who has done any of the
22 following:

23 "(a) Obtained or possessed in violation of law, or except as directed by a licensed
24 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or
25 administered to another, any controlled substances as defined in Division 10 (commencing with
26 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
27 (commencing with section 4015) of Chapter 9.

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1 "(b) Used any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2
3 (commencing with section 4015) of Chapter 9.

4 "(d) Been convicted of a criminal offense involving the consumption or
5 self-administration of any of the substances described in subdivisions (a) and (b), or the possession
6 of, or falsification of a record pertaining to, the substances described in subdivision (a), in which
7 event the record of the conviction is conclusive evidence thereof.

8 8. Section 3752 of the Code states:

9 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
10 made to a charge of any offense which substantially relates to the qualifications, functions,
11 or duties of a respiratory care practitioner is deemed to be a conviction within the meaning
12 of this article. The board shall order the license suspended or revoked, or may decline to
13 issue a license, when the time for appeal has elapsed, or the judgment of conviction has
14 been affirmed on appeal or when an order granting probation is made suspending the
15 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
16 Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
17 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
18 indictment."

19 9. California Code of Regulations, title 16, section 1399.370, states:

20 "For the purposes of denial, suspension, or revocation of a license, a crime or act
21 shall be considered to be substantially related to the qualifications, functions or duties of a
22 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
23 perform the functions authorized by his or her license or in a manner inconsistent with the
24 public health, safety, or welfare. Such crimes or acts shall include but not be limited to
25 those involving the following:

26 "(a) Violating or attempting to violate, directly or indirectly, or assisting or abetting
27 the violation of or conspiring to violate any provision or term of the Act.

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1 COST RECOVERY

2 10. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board, the
4 board or the administrative law judge may direct any practitioner or applicant found to have committed
5 a violation or violations of law to pay to the board a sum not to exceed the costs of the investigation and
6 prosecution of the case."

7 11. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall include
9 attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing,
10 and service fees."

11 12. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation may include,
13 among other things, a requirement that the licensee-probationer pay the monetary costs associated with
14 monitoring the probation. "

15 FIRST CAUSE FOR DISCIPLINE

16 (Conviction)

17 13. Respondent is subject to disciplinary action under sections 3750(d),
18 3750.5(d), 3752 [conviction], 3750(g), 3750.5(a) [possession of a controlled substance], and
19 3750.5(b) [use of a controlled substance.] The circumstances are as follows:

20 14. On or about September 2, 2004, the Nevada County Narcotics Task Force
21 of the Sheriff's Office executed a search warrant at respondent's residence. Respondent and her
22 21 year old daughter, S.S., were present in the residence at the time the warrant was executed.
23 During the search of respondent's residence, seven people came to the residence, and five were
24 arrested and transported to jail for drug related charges. There were numerous phone calls to the
25 residence during the search.

26 15. During the course of a preliminary search, Investigator Smethers discovered
27 five small ziploc baggies in plain view on respondent's bed. Three baggies contained a white
28 powdery substance and two were empty. The contents of the baggies subsequently tested positive

1 for amphetamine/methamphetamine using a Marquis Reagent field tester. Officer Jim Casci placed
2 respondent under arrest for possession of methamphetamine, a violation of Health & Safety Code
3 section 11377(a).

4 A. Officer Casci next conducted some tests to determine if respondent was under
5 the influence of a controlled substance. He used a flashlight to look at her pupils, and he noticed
6 that they were slow to react but appeared to be within a normal range of approximately 5.5
7 millimeters. He held a pen about a foot from the bridge of her nose, and told her to follow the
8 pen's movements with her eyes. He noticed that her eyes would bounce upon stopping the pen
9 partially through the lateral movement, which demonstrated a lack of smooth pursuit. Officer
10 Casci observed that respondent had a dry mouth and bad breath. Given her objective symptoms
11 and poor performance on the tests, he advised respondent that he felt she was under the influence
12 of a controlled substance. He asked her to submit to a urine test, and respondent agreed. The
13 sample was found to be positive for amphetamines and methamphetamines.

14 B. The residence was searched including the living room and respondent's
15 bedroom, and the officers discovered multiple ziploc baggies containing white powder, Zig Zag
16 rolling papers, a cigarette rolling machine, a straight edge razor blade, a digital scale containing
17 white residue. From Officer Casci's training and experience, the amounts of white powder in the
18 baggies and the quantities of the baggies were indicative of possession of sales of
19 methamphetamine. The contents of the baggies subsequently tested positive for
20 amphetamine/methamphetamine using a Marquis Reagent field tester.

21 C. In respondent's bedroom, on top of the dresser, the officers discovered two
22 white oblong tablets. No prescription bottle was present. These were subsequently identified as
23 hydrocodone 5 milligrams, a Schedule III narcotic.

24 16. Based on the amount of suspected methamphetamine discovered, the
25 various packages containing similar quantities of methamphetamine and packaging materials, and
26 scale, respondent was charged with violating Health & Safety Code section 11377, possession of a
27 controlled substance (methamphetamine); Health & Safety Code section
28 11378, possession of a controlled substance (methamphetamine) for sale; Health & Safety Code

1 section 11364, possession of paraphernalia; Health & Safety code section 11350, possession of a
2 narcotic drug (hydrocodone) without a prescription; and Health & Safety Code section 11550;
3 being under the influence of a controlled substance.

4 17. On or about 1614 hours, Officer Casci interviewed respondent at the
5 Nevada County Jail. Respondent was informed of her Miranda rights and she waived them, and
6 agreed to speak. At first, she denied knowledge of any methamphetamine in the baggies in her
7 house. She then stated that she bought about eleven grams of methamphetamine from an old
8 friend for \$300.00 to help pay for the first month of rehab for another person. She and her friend
9 repackaged the methamphetamine, "weighing it out" in the amounts that the officers discovered.
10 She stated that there were about ten or eleven grams in the main bag that she bought from her
11 friend and another two or so grams in other baggies that they weighed out. She refused to identify
12 the friend. The total net weight of all the suspected methamphetamine seized in the residence was
13 10.79 grams. Officer Casci then advised respondent that she would be charged with possession
14 and possession for sale of methamphetamine.

15 18. On or about October 7, 2004, a felony complaint titled *People of the State*
16 *of California vs. Dawn Dereese Medeiros*, case no. F04-527 A & B, was filed in Superior Court,
17 Nevada County. Count I charged respondent with a felony violation of Health & Safety Code
18 section 11377(a), possession of a controlled substance, methamphetamine. Count II charged
19 respondent with a felony violation of Health & Safety Code section 11350(a), possession of a
20 controlled substance, hydrocodone. Count III charged respondent with a misdemeanor violation
21 of Health & Safety Code section 11364, possession of drug paraphernalia. Count IV charged
22 respondent with a misdemeanor violation of Health & Safety Code section 11550(a), under the
23 influence of a controlled substance, methamphetamine.

24 19. On or about May 5, 2005, before Judge John H. Darlington, respondent
25 entered a plea of no contest to Count I. On or about June 22, 2005, the Court suspended
26 imposition of sentence and granted supervised probation for three years from the date of the order.
27 Counts II, III and IV were dismissed at sentencing. She was ordered to serve one hundred twenty
28 days in the Nevada County Jail, allowed to apply for the Alternative Sentencing Program, ordered

1 to pay fines totaling \$1,441.25; not to possess or consume controlled substances unless prescribed
2 by a physician; submit to chemical testing; attend and complete a six month substance and alcohol
3 abuse outpatient program; register as a Controlled Substances Offender, and submit ID samples
4 pursuant to Penal Code section 296.

5 20. Therefore, respondent's license is subject to discipline based on her
6 conviction upon her plea of no contest to a violation of Health & Safety code section 11377(a), in
7 violation of code sections 3750(d), 3750.5(d), 3752, 3750(g), 3750.5(a) and 3750.5(b).

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

11 1. Revoking or suspending Respiratory Care Practitioner License Number
12 7922, issued to Dawn Dereese Medeiros.

13 2. Ordering Dawn Dereese Medeiros to pay the Respiratory Care Board the
14 costs of the investigation and enforcement of this case, and if placed on probation, the costs of
15 probation monitoring;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: May 15, 2006

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19 Original signed by Liane Zimmerman for:

20 STEPHANIE NUNEZ

21 Executive Officer

22 Respiratory Care Board of California

23 Department of Consumer Affairs

24 State of California

25 Complainant
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